

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF IOWA


IN THE MATTER OF THE COMPLAINT :
AND STATEMENT OF CHARGES AGAINST :
JAMES STEVEN DEVINE, M.D., :
RESPONDENT. :

ORDER

NOW on this 28 day of May, 1980, the Findings of
Fact and Proposed Decision of the Hearing Officer, having been
accepted by the Iowa Board of Medical Examiners on the 8th day
of May, 1980, and having been filed with the Commissioner of
Public Health on the 27th day of May, 1980, and the undersigned
Commissioner of Public Health having reviewed the file and
being fully advised in the premises, does hereby make and enter
the following order.

O R D E R

IT IS HEREBY ORDERED that the license and certificate
to practice medicine and surgery in the State of Iowa, hereto-
fore issued to the respondent, James Steven Devine, M.D., on
the 16th day of December, 1948, as evidenced by certificate
number 13949, as recorded in Book 3, at page 638 of the perma-
nent records of the Iowa State Department of Health, be and the
same is hereby revoked.


Norman Pawlewski
Commissioner of Public Health
Robert Lucas State Office Building
Des Moines, Iowa 50319

Board Exhibit 3
4-14-80
RF

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BO. OF MED. EXAM.

WAIVER OF SERVICE

I JAMES S. DEVINE, M.D. respondent, do hereby accept and acknowledge due and legal service of the above and foregoing notice, waiving time, and irregularities of service and I hereby consent to the jurisdiction of the IOWA BOARD OF MEDICAL EXAMINERS to hear this case at any time convenient to the BOARD without further notice to me.

Dated April 4, 1980 at Santa Monica, California, County of Los Angeles.

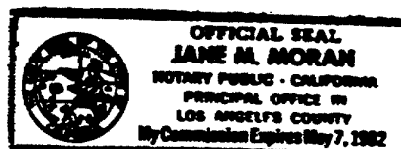
James S. Devine
Signature of Respondent

Delores J. Jucinda
Signature of Witness

By: [Signature] # 98-1018
C.W. SEES # 98-1018

(Mr. C.W. Sees,)
Sworn and subscribed before this 7th day of
April
March, 1980.

Jane M. Moran
Notary



IN THE MATTER OF THE COMPLAINT :
AND STATEMENT OF CHARGES AGAINST : FINDINGS OF FACT
AND
JAMES STEVEN DEVINE, M.D., : PROPOSED DECISIONS
RESPONDENT. :

THIS matter came up for hearing on the 10th day of April, 1980, at 11:23 a.m., at the Iowa Board of Medical Examiners offices at the State Office Building at 300 - 4th Street, Des Moines, Iowa, before Peter J. Fox, Hearing Officer, presiding.

James Steven Devine, M.D., the licentiate, was not present nor was he represented by legal counsel. Larry Blumberg, Assistant Attorney General represented the State.

The hearing proceeded with evidence being offered by the State of Iowa and no evidence being offered on the part of the respondent. Due to the fact that the Waiver of Service had not been received from the respondent the hearing was recessed until April 14, 1980, at which time the hearing was reconvened and the Waiver of Service entered into evidence.

FINDINGS OF FACT

That James Steven Devine, M.D., having been served with the Complaint and Statement of Charges, Original Notice and Order for Hearing, and having signed a Waiver of Service which acknowledged due and legal service and waiving time and irregularities of service, the Board now has jurisdiction of this case, the parties and the subject matter herein; and

That the respondent, James Steven Devine, M.D., is the holder of a certificate (number 13949) to practice medicine and surgery in the State of Iowa; and

That on the 2nd day of April, 1979, the Division of Medical Quality, Board of Medical Quality Assurance, Department of Consumer Affairs, State of California, entered an order revoking the respondent's license to practice medicine and surgery in the State of California; and

That on the 2nd day of April, 1979, the Division of Medical Quality, Board of Medical Quality Assurance, Department of Consumer Affairs, State of California, stayed the order of revocation and placed the respondent on probation under certain terms and conditions; and

That the respondent did not notify the Iowa Board of Medical Examiners of the license discipline taken by the California Board of Medical Quality Assurance.

That the evidence produced at the hearing on the 10th day of April, 1980, gives the Board reason to believe that the said James Steven Devine, M.D., has committed acts which constitute grounds for the revocation of his license under the laws and regulations of the State of Iowa, namely: Section 148.6 sub-section (d) of the 1979 Code of Iowa and Rule 470-135.204(10) of the Iowa Administrative Code.

PROPOSED DECISION

Therefore, it is the proposed decision of the Board that the action taken by the California Board of Medical Quality Assurance on the 2nd day of April, 1979, constitutes grounds for revocation of the respondent's license to practice medicine and surgery under the provisions of Section 148.6 sub-section (d) of the 1979 Code of Iowa, as follows:

Section 148.6 sub-section (d) provides,

"Having his license to practice medicine and surgery, osteopathic medicine and surgery or osteopathy revoked or suspended, or having other disciplinary action taken by a licensing authority of another state, territory or country. A certified copy of the record or order of suspension, revocation or disciplinary action is conclusive or prima facie evidence."

The failure of the respondent to notify the Iowa Board of Medical Examiners of the license discipline taken by the

that the evidence produced at the hearing on the 10th day of April, 1979 gives the Board reason to believe that the said James Steven Devine, M.D., has committed acts which constitute grounds for the revocation of his license under the laws and regulations of the State of Iowa, namely: Section 148.6 sub-section (d) of the 1979 Code of Iowa and Rule 470-135.204(10) of the Iowa Administrative Code.

PROPOSED DECISION

Therefore, it is the proposed decision of the Board that the action taken by the California Board of Medical Quality Assurance on the 2nd day of April, 1979, constitutes grounds for revocation of the respondent's license to practice medicine and surgery under the provisions of Section 148.6 sub-section (d) of the 1979 Code of Iowa, as follows:

Section 148.6 sub-section (d) provides,

"Having his license to practice medicine and surgery, osteopathic medicine and surgery or osteopathy revoked or suspended, or having other disciplinary action taken by a licensing authority of another state, territory or country. A certified copy of the record or order of suspension, revocation or disciplinary action is conclusive or prima facie evidence."

The failure of the respondent to notify the Iowa Board of Medical Examiners of the license discipline taken by the California Board of Medical Quality Assurance also constitutes grounds for revocation of the respondent's license to practice medicine and surgery under the provisions of Rule 470-135.204(10) of the Iowa Administrative Code as follows:

Rule 470-135.204(10) of the Iowa Administrative Code provides,

"Failure to report a license revocation, suspension or other disciplinary action taken by a licensing authority of another state, territory or country."

It is therefore the proposed decision of this Hearing Officer to the Board of Medical Examiners that the respondent's license to practice medicine and surgery, certificate number 13949, which was issued to the respondent on the 16th day of December, 1948, as recorded in Book 3 at page 638 of the permanent records in the office of the State Department of Health, be revoked.



Peter J. Fox
Hearing Officer

Signed this 5th day of May, 1980.

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF IOWA

IN THE MATTER OF THE COMPLAINT ;
AND STATEMENT OF CHARGES AGAINST : ORIGINAL NOTICE
JAMES S. DEVINE, M.D., :
RESPONDENT. :

TO THE ABOVE NAMED RESPONDENT: JAMES S. DEVINE, M.D.
2216 Santa Monica Boulevard
Santa Monica, California 90404

Pursuant to the authority granted to the Iowa Board of Medical Examiners under sections 17A.11 through 17A.18, 147.55, 148.6, 148.7, 258.3, 258.5 and 258.6 of the 1979 Code of Iowa, and rules 470-135.301(1) through 470-135.301(34) of the Iowa Administrative Code, you are hereby notified that the Complaint and Statement of Charges filed against you by Ronald V. Saf, Executive Director, Iowa Board of Medical Examiners, is now on file in the office of the Board of Medical Examiners, 300 Fourth Street, Des Moines, Iowa 50319. The said Complaint and Statement of Charges prays for the revocation or suspension of your license to practice medicine and surgery, which was issued to you on the 16th day of December, 1948, for all of the reasons set out in said Complaint and Statement of Charges. For further particulars and for specific rules involved see a copy of the Complaint and Statement of Charges which is hereby attached and by this reference made a part hereof.

You are also hereby notified that said Complaint and Statement of Charges will be fully heard and considered by the Board at 11 o'clock AM, CST, on the 10th day of APRIL, 1980, in the Commerce Commission Hearing Room A, located in Room 705 of the State Office Building,

Santa Monica, California 90404

Pursuant to the authority granted to the Iowa Board of Medical Examiners under sections 17A.11 through 17A.18, 147.55, 148.6, 148.7, 258.3, 258.5 and 258.6 of the 1979 Code of Iowa, and rules 470-135.301(1) through 470-135.301(34) of the Iowa Administrative Code, you are hereby notified that the Complaint and Statement of Charges filed against you by Ronald V. Saf, Executive Director, Iowa Board of Medical Examiners, is now on file in the office of the Board of Medical Examiners, 300 Fourth Street, Des Moines, Iowa 50319. The said Complaint and Statement of Charges prays for the revocation or suspension of your license to practice medicine and surgery, which was issued to you on the 16th day of December, 1948, for all of the reasons set out in said Complaint and Statement of Charges. For further particulars and for specific rules involved see a copy of the Complaint and Statement of Charges which is hereby attached and by this reference made a part hereof.

You are also hereby notified that said Complaint and Statement of Charges will be fully heard and considered by the Board at 11 o'clock AM, CST, on the 10th day of APRIL, 1980, in the Commerce Commission Hearing Room A, located in Room 705 of the State Office Building, 300 Fourth Street, Des Moines, Iowa, at which time and place you may appear and show cause, if any, for not granting the relief prayed for in said Complaint and Statement of Charges.

If you fail to so appear and defend, the hearing will proceed and a decision will be made.

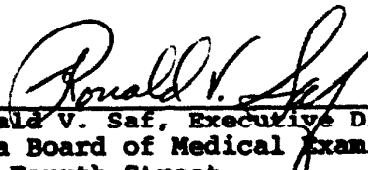
You are also hereby notified that you may appear personally and be represented by Counsel at your own expense, with the right to produce evidence in your own behalf, to examine and cross-examine witnesses and to examine documentary evidence produced against you.

You are also hereby notified that within ten days of receipt of the Original Notice you must acknowledge receipt of this Notice of Hearing, state whether you will be present at the hearing, state whether you will require an adjustment of the date and time of the hearing, and furnish the Board with a list of witnesses you wish to have subpoenaed in compliance with Rules 135.301(13) of the Iowa Administrative Code.

You are also hereby notified that within twenty days of receipt of this Original Notice you must file with the Board an answer of the type specified in Rule 135.301(14) of the Iowa Administrative Code.

IOWA STATE BOARD OF MEDICAL EXAMINERS

BY:


Ronald V. Saf, Executive Director
Iowa Board of Medical Examiners
300 Fourth Street
Des Moines, Iowa 50319
Telephone (515) 281-5171

BEFORE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF IOWA

IN THE MATTER OF THE COMPLAINT :

AND STATEMENT OF CHARGES AGAINST : ORDER FOR HEARING

JAMES S. DEVINE, M.D., :

RESPONDENT. :

NOW on this 28th day of FEBRUARY, 1980,

there is presented to the undersigned a Complaint and

Statement of Charges filed by Ronald V. Saf, Executive Director

of the Iowa State Board of Medical Examiners, to revoke or

suspend the medical license of the respondent, James S. Devine,

M.D., which was filed in this cause on the 28th day of FEBRUARY,

1980.

The undersigned having examined the Complaint and

Statement of Charges heretofore filed, and being fully advised

in the premises, FINDS:

That a hearing should be had on said Complaint and

Statement of Charges and that notice thereof shall be given

to the respondent in the manner prescribed by Rule 470-135.301(9)

of the Iowa Administrative Code.

IT IS, THEREFORE, HEREBY ORDERED that a hearing be

held upon said Complaint and Statement of Charges filed

herein to revoke or suspend the medical license issued to

the respondent, James S. Devine, M.D., and that same be set

down for hearing before this Board at 11 o'clock A.m. on

the 10th day of APRIL, 1980, in the Commerce

Commission Hearing Room A, located in Room 705 of the State

Office Building, 300 Fourth Street, Des Moines, Iowa.

IT IS FURTHER HEREBY ORDERED, ADJUDGED AND DECREED

that a written notice of said hearing, together with a

statement of the charges shall be served upon James S. Devine,
M.D., at least 30 days before said hearing in the manner re-
quired for the service of notice and the commencement of an
ordinary action.

IOWA STATE BOARD OF MEDICAL EXAMINERS

BY: Alexander Evenson, M.D.

BEFORE THE BOARD OF MEDICAL EXAMINERS

OF THE STATE OF IOWA

IN THE MATTER OF THE COMPLAINT	:	
AND STATEMENT OF CHARGES	:	COMPLAINT AND STATEMENT
AGAINST:	:	OF CHARGES
JAMES STEVEN DEVINE, M.D.,	:	
RESPONDENT.	:	

COMES NOW Ronald V. Saf, Executive Director of the Iowa State Board of Medical Examiners, on this 28th day of FEBRUARY, 1980, and files this Complaint and Statement of Charges against Dr. James Steven Devine, M.D., a physician licensed pursuant to Chapter 147, Code of Iowa, and alleges:

1. That Norman L. Pawlewski is the duly appointed qualified and acting Commissioner of Public Health of the State of Iowa.
2. That John M. Rhodes, M.D., Chairman, Kenneth R. Carrell, D.O., Vice-Chairman, Rosalie B. Neligh, M.D., Secretary, Cyrus L. Beye, M.D., Alexander Ervanian, M.D., Frederick V. Hetzler, D.O., Joseph A. McCaffrey, Ph.D., Reid Motley, M.D., and Mary P. Tokheim, are the duly appointed, qualified and acting officers and members of the Iowa State Board of Medical Examiners.
3. That the respondent is a resident of Santa Monica, County of Los Angeles, California and was issued license number 13949 to practice medicine and surgery in the State of Iowa on December 16th, 1948 as recorded in Book 3 at Page 638 of the permanent records in the office of the State Department of Health.
4. That the respondent's license is current until

5. That on April 2, 1979, the Division of Medical Quality, Board of Medical Quality Assurance, Department of Consumer Affairs, State of California, entered an order revoking the respondent's license to practice medicine and surgery in the State of California.

6. That on April 2, 1979, the Division of Medical Quality, Board of Medical Quality Assurance, Department of Consumer Affairs, State of California, stayed the order of revocation and placed the respondent on probation under certain terms and conditions.

7. That the respondent is guilty of a violation of section 148.6(d) of the 1979 Code of Iowa which states:

Having his license to practice medicine and surgery, osteopathic medicine and surgery or osteopathy revoked or suspended, or having other disciplinary action taken by a licensing authority of another state, territory, or country. A certified copy of the record or order of suspension, revocation, or disciplinary action is conclusive or prima facie evidence.

8. That the respondent is guilty of a violation of Rule 470-135.204(10) of the Iowa Administrative Code which states:

Failure to report a license revocation, suspension or other disciplinary action taken by a licensing authority of another state, territory or country.

9. That paragraph 8 and 9 constitute grounds for which the license issued to the respondent, James Devine, M.D., may be suspended or revoked.

WHEREFORE, the undersigned charges that James Devine, M.D., has violated sections 148.6(d) of the 1979 Code of Iowa, and Rule 470-135.204(10) of the Iowa Administrative Code, 1979, and the undersigned further prays that the Board enter an order fixing a time and place of hearing on this Complaint and Statement of Charges. The undersigned further prays that upon final judgment of the Board, the Board shall order that the license to practice medicine and surgery issued to James Devine, M.D., on December 16th, 1948, and for such other and further relief as the Board deems just in the premises.

STATE OF IOWA

BY: 

Ronald V. Saf, Executive Director
Iowa Board of Medical Examiners
300 Fourth Street
Des Moines, Iowa 50319
Telephone (515) 281-5171

1 GEORGE DEUKMEJIAN, Attorney General
2 JOHN M. REDMOND,
3 Deputy Attorney General
4 3580 Wilshire Boulevard
5 Los Angeles, California 90010
6 Telephone: (213) 736-2307

7 Attorneys for Complainant

STATE OF CALIFORNIA
Board of Medical Quality Assurance
I, Vernon G. Leeper, official
custodian of the records, do hereby
certify that this document is a true
and correct copy of the original on
file in this office.

Vernon G. Leeper 1/10/80
SIGNED DATE
by Buie Harris

8 BEFORE THE DIVISION OF MEDICAL QUALITY

9 BOARD OF MEDICAL QUALITY ASSURANCE

10 DEPARTMENT OF CONSUMER AFFAIRS

11 STATE OF CALIFORNIA

RECEIVED
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DB. OF MED. EXAM.

13 In the Matter of the Accusation) NO. D-2158
14 Against:)
15 JAMES STEVEN DEVINE, M.D.) STIPULATION
16 Certificate No. G-3938,)
17 Respondent.)

18 IT IS HEREBY STIPULATED AND AGREED by and between
19 respondent James Steven Devine, M.D., by and through his
20 counsel, R. Gordon Laughlin, and the Division of Medical Quality
21 of the Board of Medical Quality Assurance by and through its
22 counsel George Deukmejian, Attorney General, and John M.
23 Redmond, Deputy Attorney General, as follows:

24 I

25 That on February 4, 1957, the board issued respondent
26 physician's and surgeon's certificate number G-3938, and that
27 said certificate is currently in full force and effect.

1.

BOARD EXHIBIT 1
4-10-80
VII

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II

That on April 12, 1978, an accusation entitled, "In the Matter of the Accusation Against: James Steven Devine, M.D., License No. G-3938, Respondent," No. D-2158 was filed with the Division of Medical Quality.

III

That said accusation was brought by Robert G. Rowland, who made said accusation acting solely in his official capacity as executive director of the Board of Medical Quality Assurance.

IV

That respondent has retained R. Gordon Laughlin of the firm Detrixhe and Laughlin as his counsel in this matter.

V

That respondent and his counsel have fully discussed the charges of unprofessional conduct alleged in said accusation, No. 2158, and respondent has been fully advised of his rights and available defenses in this matter.

VI

That respondent is fully aware of his right to a hearing on the charges of unprofessional conduct contained in said accusation, his right to confront and cross-examine witnesses against him, his right to reconsideration, appeal and any and all other rights which may be available to him pursuant to the California Administrative Procedure Act, and having such rights in mind freely and voluntarily waives his right to a hearing, confrontation and cross-examination of witnesses,

1 reconsideration, appeal and any and all other rights which may
2 be available to him under the California Administrative
3 Procedure Act with respect to said accusation No. D-2158.

4 VII

5 That respondent hereby freely and voluntarily admits
6 that he is subject to disciplinary action for unprofessional
7 conduct as specified in Business and Professions Code
8 section 2395.5 in that on May 13, 1977, June 10, 1977, July 12,
9 1977, December 6, 1977, and January 16, 1978, he did prescribe
10 dangerous drugs, to wit, 30 Seconal 1-1/2 gr., to and for Nancy
11 Simpson without a good faith prior examination and medical
12 indication therefor.

13 VIII

14 That respondent was previously a family practitioner
15 in an Iowa town of 900 people for 15 years, left to join the
16 service because of financial strain, served in the Navy until
17 1956 rising to the rank of Lieutenant Commander in charge of the
18 Medical Division of the Amphibious Service in the Pacific, and
19 has not suffered any prior disciplinary action.

20 IX

21 That in 1976 respondent was hospitalized for two
22 months with severe hepatitis, and suffered from lingering side
23 effects of the disease including blindness, underwent eye
24 surgery in December 1976, and was out of practice due to his
25 convalescence for six months in 1977; that during 1977 one of
26 respondent's sons also contracted hepatitis, his 13 year old
27 daughter suffered a broken back, his wife who served as his

1 registered nurse was forced to leave California to aid her
2 mother who was suffering from terminal cancer, and that
3 respondent also left California for two months to aid his mother
4 who had a gangrenous foot.

5 X

6 That in 1978 it was discovered that respondent's wife
7 was suffering from cancer and as a result she has had to undergo
8 three operations and respondent had to transport his wife three
9 times to the University of Texas Cancer Clinic for extensive
10 treatments; that also during 1978 one of respondent's sons
11 received injury from an attack by a later-convicted rapist and
12 spent two months convalescing at home; that respondent underwent
13 a second eye operation; and that all of these events have left
14 respondent in an extremely strained financial situation and
15 suffering from emotional problems.

16 XI

17 That based upon the foregoing facts the Division of
18 Medical Quality shall make the following order:

19 ORDER

20 Certificate No. G-3938 issued to respondent James S.
21 Devine, M.D. is revoked. However, revocation is stayed and
22 respondent is placed on probation for five years beginning with
23 the effective date of this decision upon the following terms and
24 conditions:

- 25 (1) Respondent must surrender for cancellation his
26 D.E.A. permit together with any triplicate prescription
27 forms and federal order forms to the Drug Enforcement

1 Administration and must provide documentary proof of such
2 surrender no later than the effective date of this
3 decision;

4 (2) Respondent may apply for a D.E.A. controlled
5 substances permit to prescribe and dispense only those
6 substances set forth in schedules IV and V of the Federal
7 Controlled Substances Act (21.C.F.R. §§ 1308.14 and
8 1308.15), and during the period of his probation respondent
9 shall not prescribe, administer, dispense or order
10 controlled substances or dangerous drugs, except for those
11 drugs listed in schedules IV and V of the Federal
12 Controlled Substances Act;

13 (3) Within 30 days of the effective date of this
14 decision, respondent shall submit to the Division for its
15 prior approval the name and qualifications of a
16 psychiatrist of his choice;

17 (4) Within 60 days of the effective date of this
18 decision, respondent shall undergo a psychiatric
19 examination by the approved psychiatrist who shall furnish
20 a report to the Division determining whether respondent can
21 safely practice medicine and whether psychiatric treatment
22 is necessary for respondent to practice medicine safely.
23 Respondent shall not practice medicine unless the Division
24 determines from the report of the approved psychiatrist
25 that respondent is not mentally ill to such an extent as to
26 affect his ability to conduct with safety the practice
27 authorized by his certificate. Respondent must undergo

1 treatment if so recommended by the approved psychiatrist.
2 During the period of psychiatric treatment, respondent must
3 have the approved psychiatrist submit semi-annual progress
4 reports to the Division;

5 (5) During the period of psychiatric treatment
6 respondent must undergo an administrative psychiatric
7 evaluation every six months conducted by a psychiatrist not
8 treating respondent who is approved or designated by the
9 Division and furnish reports thereof to the Division;

10 (6) Within one year of the effective date of this decision,
11 respondent must take and successfully pass an oral clinical
12 examination in family practice and medical therapeutics to
13 be administered by the Division or its designee;

14 (7) Respondent must obey all federal, state, and local
15 laws and all rules governing the practice of medicine in
16 California;

17 (8) Respondent must submit quarterly declarations
18 under penalty of perjury on forms provided by the Division,
19 stating whether there has been compliance with all the
20 conditions of probation;

21 (9) Respondent must comply with the Division's
22 probation surveillance program;

23 (10) Respondent must appear in person for interviews
24 with the Division's medical consultant upon request at
25 various intervals and with reasonable notice;

26 (11) In the event respondent should leave California to
27 reside or to practice outside the state, respondent must

1 notify the Division of the dates of departure and return.
2 Periods of residency or practice outside California will not
3 apply to the reduction of this probationary period.

4 If respondent violates probation in any respect, the
5 Division, after giving respondent notice and the opportunity to
6 be heard, may move to set aside the stay order and impose the
7 revocation of the respondent's certificate. Upon successful
8 completion of probation, respondent's certificate will be fully
9 restored.

10 XII

11 That this stipulation shall be subject to the
12 acceptance of the Division of Medical Quality. If the Division
13 of Medical Quality fails to accept this stipulation, it shall be
14 of no force or effect for either party.

15 DATED: April 2, 1979


16 GEORGE DEUKMEJIAN
17 Attorney General

18 
19 JOHN M. REDMOND
20 Deputy Attorney General

21 Attorneys for Complainant

22 I have read the foregoing stipulation, am fully aware
23 of its contents, and have been fully advised by my attorney with
24 regard to the contents and effect of said stipulation.

25 DATED: 4-2-79

26 
27 JAMES STEVEN DEVINE, M.D.
Respondent

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DATED: 4/2/79


R. GORDON LAUGHLIN
Attorney for Respondent

THE ABOVE STIPULATION, ORDER, AND TERMS AND CONDITIONS
OF PROBATION ARE HEREBY ACCEPTED.

DATED: May 24, 1979 and effective on June 25, 1979

DIVISION OF MEDICAL QUALITY
BOARD OF MEDICAL QUALITY ASSURANCE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

BY: 
A. DAVID AXELRAD, M.D.
Secretary-Treasurer

1 EVELLE J. YOUNGER, Attorney General
MARK A. LEVIN,
2 DORA LEVIN,
Deputy Attorneys General
3 800 Tishman Building
3580 Wilshire Boulevard
4 Los Angeles, California 90010
Telephone: (213) 736-2029
5
6 Attorneys for Complainant
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8

9 BEFORE THE DIVISION OF MEDICAL QUALITY
10 BOARD OF MEDICAL QUALITY ASSURANCE
11 DEPARTMENT OF CONSUMER AFFAIRS
12 STATE OF CALIFORNIA
13

14 In the Matter of the Accusation)	
Against:)	
)	NO. <u>D-2158</u>
15 JAMES STEVEN DEVINE, M.D.)	
License No. G- 3938,)	ACCUSATION
)	
16 Respondent.)	
17)	

18 Complainant, Robert G. Rowland, alleges that:

19 1. He is the Executive Director of the Board of Medical
20 Quality Assurance of the State of California and brings this
21 accusation solely in his official capacity.

22 2. On or about February 4, 1957, respondent James
23 Steven Devine, M.D. (hereinafter "respondent") was issued
24 physician's and surgeon's certificate number G- 3938. Said
25 certificate is currently, and was at all times mentioned herein,
26 in full force and effect.
27

1 3. Pursuant to section 2100.6 of the Business and
2 Professions Code, there is a Division of Medical Quality
3 (hereinafter "division") within the Board of Medical Quality
4 Assurance.

5 4. Pursuant to section 2361 of the Business and
6 Professions Code, the division shall take action against any
7 holder of a physician's and surgeon's certificate who is guilty of
8 unprofessional conduct.

9 5. Pursuant to section 2399.5 of the Business and
10 Professions Code, prescribing dangerous drugs, as defined in
11 section 4211 of said code, without a good faith prior examination
12 and medical indication therefor, constitutes unprofessional
13 conduct.

14 6. Respondent is guilty of unprofessional conduct
15 within the meaning of section 2399.5 of the Business and
16 Professions Code in that he has prescribed the following dangerous
17 drugs to the following individuals without a good faith prior
18 examination and medical indication therefor:

<u>DATE</u>	<u>DRUG & DOSAGE</u>	<u>AMOUNT</u>	<u>PURCHASER</u>
5/13/77	Seconal 1 1/2 gr.	30 capsules	Nancy Simpson
5/24/77	Quaalude 300 mg.	36 tablets	Sharyn Dalton
6/10/77	Seconal 1 1/2 gr.	30 capsules	Nancy Simpson
7/12/77	Seconal 1 1/2 gr.	30 capsules	Nancy Simpson
7/19/77	Tuinal 1 1/2 gr.	50 capsules	Sharyn Dalton
8/8/77	Dexedrine 5 mg.	50 tablets	T. Gerardo Nestas aka Jerry Moreno
11/21/77	Tuinal 1 1/2 gr.	50 capsules	Sharyn Dalton

1 12/6/77 Seconal 1 1/2 gr. 30 capsules Nancy Simpson
2 1/13/78 Tuinal 1 1/2 gr. 50 capsules Sharyn Dalton
3 1/16/78 Seconal 1 1/2 gr. 30 capsules Nancy Simpson

4 7. The foregoing drugs are classified as dangerous
5 drugs and controlled substances as follows:

6 A. Seconal is a dangerous drug
7 pursuant to section 4211, subdivisions (a) and
8 (k) of the Business and Professions Code and a
9 controlled substance pursuant to section
10 11056, subdivision (b)(1) of the Health and
11 Safety Code.

12 B. Quaalude is a dangerous drug
13 pursuant to section 4211, subdivisions (a) and
14 (k) of the Business and Professions Code and a
15 controlled substance pursuant to section
16 11056, subdivision (b)(1)(6) of the Health and
17 Safety Code.

18 C. Tuinal is a dangerous drug
19 pursuant to section 4211, subdivisions (a) and
20 (k) of the Business and Professions Code and a
21 controlled substance pursuant to section
22 11056, subdivision (b)(1) of the Health and
23 Safety Code.

24 D. Dexedrine is a dangerous drug
25 pursuant to section 4211, subdivision (c) of
26 the Business and Professions Code and a
27 controlled substance pursuant to section

1 11055, subdivision (d)(1) of the Health and
2 Safety Code.

3 8. Pursuant to section 2391.5 of the Business and
4 Professions Code, a violation of any statute of this state
5 regulating controlled substance constitutes unprofessional
6 conduct.

7 9. Health and Safety Code section 11154, a California
8 statute regulating controlled substances, provides in pertinent
9 part:

10 "Except in the regular practice of his
11 profession, no person shall prescribe . . . a
12 controlled substance to or for any person who
13 is not under his treatment for a pathology or
14 condition other than addiction to a controlled
15 substance"

16 10. Respondent is further subject to disciplinary
17 action pursuant to section 2391.5 of the Business and Professions
18 Code, in conjunction with section 11154 of the Health and Safety
19 Code, in that outside the regular practice of his profession he
20 has prescribed controlled substances for the persons identified
21 in paragraph 6 who were not under his treatment for a pathology or
22 condition other than addiction to a controlled substance, as more
23 particularly alleged hereinafter:

24 . Paragraphs 6 and 7, set forth hereinabove,
25 are incorporated herein by reference as though
26 fully set forth heretofore.

27

1 WHEREFORE, complainant prays that the Division of
2 Medical Quality hold a hearing on the matters alleged herein and,
3 following said hearing, issue an order:

4 1. Suspending or revoking physician's and surgeon's
5 certificate number G- 3938 heretofore issued to respondent James
6 Steven Devine, M.D.; and

7 2. Taking such other and further action as the
8 division deems just and proper.

9 DATED: April 12, 1978

10 

11 ROBERT G. ROWLAND
12 Executive Director
13 Board of Medical Quality Assurance
14 State of California

15 Complainant
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L/DL:dt
10/78

OD
FILE

± 02-79-174

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF IOWA

IN THE MATTER OF THE COMPLAINT :
AND STATEMENT OF CHARGES AGAINST : FINDINGS OF FACT
AND
JAMES STEVEN DEVINE, M.D., : PROPOSED DECISIONS
RESPONDENT. :

THIS matter came up for hearing on the 10th day of
April, 1980, at 11:23 a.m., at the Iowa Board of Medical
Examiners offices at the State Office Building at 300 - 4th
Street, Des Moines, Iowa, before Peter J. Fox, Hearing Officer,
presiding.

James Steven Devine, M.D., the licentiate, was not present
nor was he represented by legal counsel. Larry Blumberg,
Assistant Attorney General represented the State.

The hearing proceeded with evidence being offered by the
State of Iowa and no evidence being offered on the part of
the respondent. Due to the fact that the Waiver of Service
had not been received from the respondent the hearing was re-
cessed until April 14, 1980, at which time the hearing was
reconvened and the Waiver of Service entered into evidence.

FINDINGS OF FACT

That James Steven Devine, M.D., having been served with
the Complaint and Statement of Charges, Original Notice and
Order for Hearing, and having signed a Waiver of Service which
acknowledged due and legal service and waiving time and ir-
regularities of service, the Board now has jurisdiction of
this case, the parties and the subject matter herein; and

That the respondent, James Steven Devine, M.D., is the
holder of a certificate (number 13949) to practice medicine
and surgery in the State of Iowa; and

That on the 2nd day of April, 1979, the Division of Medical
Quality, Board of Medical Quality Assurance, Department of
Consumer Affairs, State of California, entered an order re-
voking the respondent's license to practice medicine and
surgery in the State of California; and

That on the 2nd day of April, 1979, the Division of Medical Quality, Board of Medical Quality Assurance, Department of Consumer Affairs, State of California, stayed the order of revocation and placed the respondent on probation under certain terms and conditions; and

That the respondent did not notify the Iowa Board of Medical Examiners of the license discipline taken by the California Board of Medical Quality Assurance.

That the evidence produced at the hearing on the 10th day of April, 1980, gives the Board reason to believe that the said James Steven Devine, M.D., has committed acts which constitute grounds for the revocation of his license under the laws and regulations of the State of Iowa, namely: Section 148.6 sub-section (d) of the 1979 Code of Iowa and Rule 470-135.204(10) of the Iowa Administrative Code.

PROPOSED DECISION

Therefore, it is the proposed decision of the Board that the action taken by the California Board of Medical Quality Assurance on the 2nd day of April, 1979, constitutes grounds for revocation of the respondent's license to practice medicine and surgery under the provisions of Section 148.6 sub-section (d) of the 1979 Code of Iowa, as follows:

Section 148.6 sub-section (d) provides,

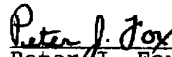
"Having his license to practice medicine and surgery, osteopathic medicine and surgery or osteopathy revoked or suspended, or having other disciplinary action taken by a licensing authority of another state, territory or country. A certified copy of the record or order of suspension, revocation or disciplinary action is conclusive or prima facie evidence."

The failure of the respondent to notify the Iowa Board of Medical Examiners of the license discipline taken by the California Board of Medical Quality Assurance also constitutes grounds for revocation of the respondent's license to practice medicine and surgery under the provisions of Rule 470-135.204(10) of the Iowa Administrative Code as follows:

Rule 470-135.204(10) of the Iowa Administrative
Code provides,

"Failure to report a license revocation, sus-
pension or other disciplinary action taken by a
licensing authority of another state, territory
or country."

It is therefore the proposed decision of this Hearing
Officer to the Board of Medical Examiners that the respondent's
license to practice medicine and surgery, certificate number
13949, which was issued to the respondent on the 16th day of
December, 1948, as recorded in Book 3 at page 638 of the
permanent records in the office of the State Department of
Health, be revoked.



Peter J. Fox
Hearing Officer

Signed this 5th day of May, 1980.